

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

MICHAEL LEE LEVY, M.D.)

Case No. 800-2015-014666

**Physician's and Surgeon's)
Certificate No. G62556)**

Respondent)

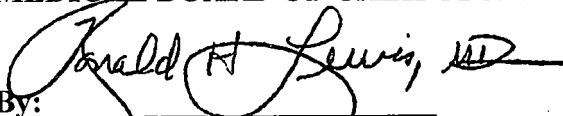
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on July 18, 2019.

IT IS SO ORDERED June 18, 2019.

MEDICAL BOARD OF CALIFORNIA

By: 

**Ronald Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 LEANNA E. SHIELDS
Deputy Attorney General
4 State Bar No. 239872
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9401
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

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**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MICHAEL LEE LEVY, M.D.
7910 Frost Street, Suite 120
San Diego, CA 92123-2776

**Physician's and Surgeon's Certificate No. G
62556**

Respondent.

Case No. 8002015014666

OAH No. 2018100234

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
of California (Board). She brought this action solely in her official capacity and is represented in
this matter by Xavier Becerra, Attorney General of the State of California, by LeAnna E. Shields,
Deputy Attorney General.

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2. Respondent Michael Lee Levy, M.D. (Respondent) is represented in this proceeding by attorney Thomas E. Lotz, Esq., Lotz, Doggett, & Rawers, LLP, whose address is: 101 W. Broadway, Suite 1110, San Diego, CA 92101.

3. On or about March 28, 1988, the Board issued Physician's and Surgeon's Certificate No. G 62556 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 8002015014666, and will expire on September 30, 2019, unless renewed.

JURISDICTION

4. On May 18, 2018, Accusation No. 8002015014666 was filed before the Board, and is currently pending against Respondent. A true and correct copy of Accusation No. 8002015014666 and all other statutorily required documents were properly served on Respondent on May 18, 2018. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 8002015014666 is attached hereto as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 8002015014666. Respondent has also carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
2 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

3 **ADDITIONAL PROVISIONS**

4 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
5 be an integrated writing representing the complete, final and exclusive embodiment of the
6 agreements of the parties in the above-entitled matter.

7 13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
8 including copies of the signatures of the parties, may be used in lieu of original documents and
9 signatures and, further, that such copies shall have the same force and effect as originals.

10 14. In consideration of the foregoing admissions and stipulations, the parties agree the
11 Board may, without further notice to or opportunity to be heard by respondent, issue and enter the
12 following Disciplinary Order:

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 62556 issued
15 to Respondent MICHAEL LEE LEVY, M.D., shall be and is hereby publicly reprimanded
16 pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This
17 Public Reprimand, which is issued in connection with Accusation No. 8002015014666, is as
18 follows: On or about March 24, 2014, Respondent was negligent in his care and treatment of
19 Patient A who had a history of pseudotumor cerebri and presented for ventriculoperitoneal shunt
20 placement due to recent onset of bilateral papilledema, as more fully described in Accusation No.
21 8002015014666.

22 1. **EDUCATION COURSE.** Within one (1) year of the effective date of the Decision,
23 Respondent shall complete not less than forty (40) hours of Continuing Medical Education
24 (CME). The CME courses shall be aimed at correcting any areas of deficient practice or
25 knowledge in pediatric neurosurgery. The forty (40) hours of CME shall be at Respondent's
26 expense and shall be in addition to the CME requirements for renewal of licensure. Respondent
27 shall submit proof of completion to the Board or its designee.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and, having
3 the benefit of counsel, enter into it freely, voluntarily, intelligently, and with full knowledge of its
4 force and effect on my Physician's and Surgeon's Certificate No. G 62556. I fully understand
5 that, after signing this stipulation, I may not withdraw from it, that it shall be submitted to the
6 Medical Board of California for its consideration, and that the Board shall have a reasonable
7 period of time to consider and act on this stipulation after receiving it. By entering into this
8 stipulation, I fully understand that, upon formal acceptance by the Board, I shall be publicly
9 reprimanded by the Board and shall be required to comply with all of the terms and conditions of
10 the Disciplinary Order set forth above. I also fully understand that any failure to comply with the
11 terms and conditions of the Disciplinary Order set forth above shall constitute unprofessional
12 conduct and will subject my Physician's and Surgeon's Certificate No. G 62556 to further
13 disciplinary action. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
14 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical
15 Board of California.

16
17 DATED: _____

18 MICHAEL LEE LEVY, M.D.
19 Respondent

20 I have read and fully discussed with Respondent Michael Lee Levy, M.D., the terms and
21 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
22 I approve its form and content.

23
24 DATED: May 1, 2019

25 Thomas E. Lotz, Esq.
26 Attorney for Respondent

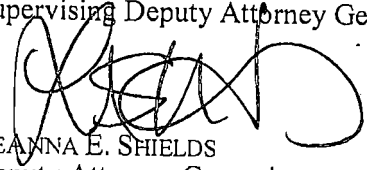
27 ENDORSEMENT

1 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
2 submitted for consideration by the Medical Board of California.

3 Dated: 5.1.19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General


LEANNA E. SHIELDS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 8002015014666

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 LEANNA E. SHIELDS
Deputy Attorney General
4 State Bar No. 239872
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9401
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 18 2018
BY: [Signature] ANALYST

10 BEFORE THE
11 MEDICAL BOARD OF CALIFORNIA
12 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 8002015014666

14 MICHAEL LEE LEVY, M.D.
7910 Frost Street, Suite 120
15 San Diego, CA 92123-2776

ACCUSATION

16 Physician's and Surgeon's Certificate
No. G 62556,

17 Respondent.

18
19
20 Complainant alleges:

21 PARTIES

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).

25 2. On or about March 28, 1988, the Medical Board issued Physician's and Surgeon's
26 Certificate No. G 62556 to Michael Lee Levy, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein
28 and will expire on September 30, 2019, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

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1 5. Section 2234 of the Code states, in pertinent part:

2 "The board shall take action against any licensee who is charged with
3 unprofessional conduct. In addition to other provisions of this article, unprofessional
4 conduct includes, but is not limited to, the following:

5 "(a) Violating or attempting to violate, directly or indirectly, assisting in or
6 abetting the violation of, or conspiring to violate any provision of this chapter.

7 "(b) Gross negligence.

8 "(c) Repeated negligent acts. To be repeated, there must be two or more
9 negligent acts or omissions. An initial negligent act or omission followed by a separate
10 and distinct departure from the applicable standard of care shall constitute repeated
11 negligent acts.

12 "(1) An initial negligent diagnosis followed by an act or omission medically
13 appropriate for that negligent diagnosis of the patient shall constitute a single negligent
14 act.

15 "(2) When the standard of care requires a change in the diagnosis, act, or
16 omission that constitutes the negligent act described in paragraph (1), including, but
17 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
18 licensee's conduct departs from the applicable standard of care, each departure
19 constitutes a separate and distinct breach of the standard of care.

20 "..."

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Gross Negligence)**

23 6. Respondent has subjected his Physician's and Surgeon's Certificate No. G 62556 to
24 disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision (b), of the Code,
25 in that he committed gross negligence in his care and treatment of Patient A¹ as more particularly
26 alleged hereinafter:

27 _____
28 ¹ For patient privacy, the patient's name has been withheld.

1 7. On or about March 18, 2014, Patient A presented to her ophthalmologist, P.B.,
2 regarding visual changes in her right eye with tunnel vision. Patient A had a history of idiopathic
3 intracranial hypertension and previous optic nerve sheath fenestration. Patient A was prescribed
4 Diamox².

5 8. On or about March 21, 2014, Patient A returned to her ophthalmologist, P.B., regarding
6 worsening visual fields and was referred to the emergency department for emergency
7 ventriculoperitoneal shunt placement. Respondent performed a ventriculoperitoneal shunt on
8 Patient A.

9 9. On or about March 23, 2014, Patient A was evaluated and determined to have bilateral
10 papilledema, decreased vision, and continued elevated intracranial pressure.

11 10. On or about March 24, 2014, Respondent performed a revision of the
12 ventriculoperitoneal shunt which included widening the burr hole and revising the catheter position
13 in attempt to increase the cerebral fluid flow. After the revision of the ventriculoperitoneal shunt,
14 Patient A remained intubated and non-responsive.

15 11. Respondent ordered a lumbar puncture, which was performed by neurologist, A.S. A
16 subsequent CT scan revealed extensive loss of gray-white differentiation. Patient A briefly
17 regained consciousness after the lumbar puncture, but then became unresponsive again.

18 12. Respondent then ordered a right frontal ventriculostomy, which was performed by
19 neurologist, A.S. On or about March 25, 2014, a CT scan revealed diffuse injury. A subsequent
20 MRI revealed profound hypoxic ischemic injury with significant vasospasm and a significant
21 decrease in arterial flow.

22 13. On or about March 25, 2014, a CT scan revealed diffuse edema with loss of gray-
23 white differentiation, diffuse effacement of the sulci and basal cisterns, and slit-like lateral
24 ventricles.

25 14. On or about April 2, 2014, Patient A was declared brain dead.

27 ² Diamox is an enzyme inhibitor that decreases the secretion of aqueous humor, resulting in a drop in
28 intraocular pressure.

1 15. Respondent committed gross negligence in his care and treatment of Patient A, which
2 included, but was not limited to, the failure to perform a definitive procedure to control Patient
3 A's intracranial pressure. Respondent ordered a lumbar puncture, wherein a large volume of spinal
4 fluid was removed. Only after further clinical decline did Respondent order the external
5 ventricular drain.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Repeated Negligent Acts)**

8 16. Respondent has further subjected his Physician's and Surgeon's Certificate No. G
9 62556 to disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision (c), of
10 the Code, in that he committed repeated negligent acts in his care and treatment of Patient A as
11 more particularly alleged hereinafter:

12 17. Paragraphs 6 through 15, above, are hereby incorporated by reference and realleged as
13 if fully set forth herein.

14 18. Respondent committed negligence in his care and treatment of Patient A, which
15 included, but was not limited to, the failure to perform a ventriculoperitoneal shunt from a new
16 entry point when the original ventriculoperitoneal shunt did not adequately relieve Patient A's
17 intracranial pressure.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Violation or Violations of the Medical Practice Act)**

20 19. Respondent has further subjected his Physician's and Surgeon's Certificate No. G
21 62556 to disciplinary action under sections 2227 and 2234, as defined by 2234, subdivision (a), of
22 the Code, in that he committed a violation or violations of a provision or provisions of the Medical
23 Practice Act, as more particularly alleged in paragraphs 6 through 18, above, which are hereby
24 incorporated by reference and realleged as if fully set forth herein.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Medical Board of California issue a decision:

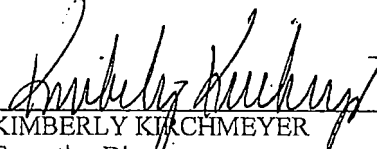
4 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 62556, issued to
5 Respondent Michael Lee Levy, M.D.;

6 2. Revoking, suspending or denying approval of Respondent Michael Lee Levy, M.D.'s
7 authority to supervise physician assistants and advanced practice nurses;

8 3. Ordering Respondent Michael Lee Levy, M.D., if placed on probation, to pay the
9 Board the costs of probation monitoring; and

10 4. Taking such other and further action as deemed necessary and proper.

11
12 DATED: May 18, 2018


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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